

**BEFORE THE IDAHO STATE BOARD OF  
DRINKING WATER AND WASTEWATER PROFESSIONALS**

In the Matter of the License of:	)	
	)	Case No. WWP-2008-25
STEVEN J. SCHAFFNER,	)	
License No. DWDVSWWS-11432,	)	<b>STIPULATION AND</b>
	)	<b>CONSENT ORDER</b>
Respondent.	)	
	)	

WWP\Schaffner\P8028lga

WHEREAS, information has been received by the Idaho State Board of Drinking Water and Wastewater Professionals (the “Board”) that constitutes sufficient grounds for the initiation of an administrative action against Steven J. Schaffner (“Respondent”); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. Stipulated Facts and Law**

A.1. The Board regulates the practice of drinking water operators, wastewater operators, and backflow assembly testers in the State of Idaho in accordance with title 54, chapter 24, Idaho Code.

A.2. The Board has issued License No. DWDVSWWS-11432 to practice as a drinking water distribution very small water system operator. Respondent’s license is subject to the provisions of title 54, chapter 24, Idaho Code and the Board’s rules at IDAPA 24.05.01, *et seq.*

A.3. Pursuant to Idaho Code § 54-2406, the Board has adopted a rule requiring continuing education as a condition of continued licensure. Board Rule 500.01 (IDAPA 24.05.01.500.01) requires each licensee to complete a minimum of six (6) hours of approved continuing education annually for license renewal, except that backflow

assembly testers shall complete an eight (8) hour refresher course every two (2) years for license renewal.

A.4. On or about January 22, 2007, Respondent submitted a License Renewal Application for the 2007-08 renewal year. As part of the License Renewal Application, Respondent answered “yes” to the question: “Have you met the continuing education requirement as prescribed by the laws and rules applicable to the license identified by this application?” Respondent also signed the following affidavit:

I hereby certify under penalty of perjury that my responses to each of the above and any that may be attached are true and correct. I further certify that I have read and will comply with the laws and rules governing any activity that may be authorized subsequent to this application.

The License Renewal Application further notified Respondent that the Board would conduct random audits to ensure compliance with continuing education requirements.

A.5. On or about May 17, 2007, Respondent was notified that he had been selected for a continuing education audit to confirm completion of the Board’s continuing education requirements for the period January 22, 2006, to January 22, 2007.

A.6. Respondent admits that he failed to obtain six hours of continuing education for the audit period.

A.7. Respondent’s failure to obtain and provide verification of the required continuing education attendance during the audit period constitutes a violation of the laws and rules of the Board, specifically Idaho Code § 54-2412(1)(d) and IDAPA 24.05.01.500.01.

## **B. Waiver of Procedural Rights**

I, Steven J. Schaffner, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.4 through A.7. I further understand that these allegations constitute cause for disciplinary action upon my license to practice as a drinking water distribution very small water system operator in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of drinking water distribution very small water system operators in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

### **C. Stipulated Discipline**

C.1. Respondent shall pay investigative costs and attorney fees in the amount of Two Hundred and No/100 Dollars (\$200.00) within thirty (30) days of the entry of the Board's Order.

C.2. Respondent has, since the date of renewal on January 22, 2007, obtained the following continuing education and provided documentation of the same to the Board:

<b>Course Title</b>	<b>Date</b>	<b>Sponsoring Organization</b>	<b>Location</b>	<b>Total hrs</b>
Odor Control	9/18/07	Brown Environmental	Bonnors Ferry, ID	7
<b>Total Hours</b>				7

Of the 7 continuing education hours that Respondent has obtained since January 22, 2007, six (6) of those hours shall be applied to Respondent's continuing education requirement for the 2006-07 renewal year. Respondent may use the 1-hour balance toward his 2007-08 continuing education requirements.

C.4. At the time Respondent renews his license in 2008 and 2009, Respondent shall submit with his License Renewal Application documentation verifying completion of the required continuing education.

C.5. All costs associated with compliance with the terms of this Stipulation and  
STIPULATION AND CONSENT ORDER - 3

Consent Order are the sole responsibility of Respondent.

C.6. The violation of any of the terms of this Stipulation and Consent Order by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

#### **D. Presentation of Stipulation to Board**

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

#### **E. Violation of Stipulation and Consent Order**

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to

Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 13 day of February, 2008.

Steven J. Schaffner  
Steven J. Schaffner  
Respondent

Approved as to form this 3<sup>rd</sup> day of March, 2008.

JAMES, VERNON & WEEKS, P.A.

By Susan P. Weeks  
Susan P. Weeks  
Of Attorneys for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 6<sup>th</sup> day of March, 2008.

STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By Michael S. Gilmore  
Michael S. Gilmore  
Deputy Attorney General

### ORDER

Pursuant to Idaho Code § 54-2406, the foregoing is adopted as the decision of the Idaho State Board of Drinking Water and Wastewater Professionals in this matter and shall be effective on the 16 day of April, 2008. **IT IS SO ORDERED.**

IDAHO STATE BOARD OF  
DRINKING WATER AND  
WASTEWATER PROFESSIONALS

By Bill Thompson  
Bill Thompson, Chair

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16<sup>th</sup> day of April, 2008, I caused to be served a true and correct copy of the foregoing by the following method to:

Steven J. Schaffner  
1506 Hickory  
Sandpoint, ID 83864

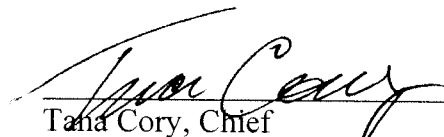
- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Susan P. Weeks  
JAMES, VERNON & WEEKS, P.A.  
1626 Lincoln Way  
Coeur d'Alene, ID 83814

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Michael S. Gilmore  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail

  
\_\_\_\_\_  
Tana Cory, Chief  
Bureau of Occupational Licenses